Warning to Travellers (Ocean and Fellow): The State Dept.'s New Passport Forms, Page 2

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A New Oath for Southern Senators and A Way to Get Arab-Israeli Peace

Trying for A Smile in A World 'On The Brink'

We gather from last week's manifesto that in the future new Southern members of Congress will be escorted to the rostrum, raise their right hand and solemnly swear not to uphold the laws and the Constitution.

A private poll of our own in the State Department has turned up a basis for peace between Israel and the Arabs. To the question "which of the races of mankind do you now find the biggest headache?" an astonishingly large number of officials replied, "Semites." This is a change from the days when McCarthy was riding high. At that time a majority unhesitatingly had answered, "Senators." Interviews showed that officials were impartially anti-Semitic as between Jews and Arabs. We came away convinced that if the Department's private conferences were wired for sound and re-broadcast from Cairo and Tel Aviv, the two contending peoples in the Middle East would at once unite in fraternal indignation. We can see Nasser and Ben Gurion riding forth side by side in *jehad* against the obnoxious *goyim* of the State Department.

It is this feeling in the Department which lies behind one of the deletions made by the Secretary of State in the printed record of his testimony before the Senate Foreign Relations Committee. Mr. Dulles attributed some of the difficulty in bringing about a settlement between Israel and the Arabs to "the bargaining proclivities of both sides," a remark calculated to inflame all the bazaars from Baghdad to Damascus. This was deleted. Mr. Dulles seems to have been particularly down on Semites that day; another of the deletions later made in his testimony was that the Arabs hated the Jews because the Jews assassinated Mohammed. The Secretary seems to have confused Mohammed with the Arabian American Oil Company whose directors would indeed be well advised not to wander off the better lit streets at night in Tel Aviv or Brooklyn.

Without realizing it Mr. Dulles may have stumbled in these deletions on a new technique in government. When asked an embarrassing question at a Congressional hearing, give a wrong answer but, with an air of wanting to be absolutely accurate, reserve the right to change it later. Make the correction in the galley proofs, and by the time the printed record appears public attention has been distracted and nobody notices the change. But if somebody does, you can't be accused of falsification. This is what happened when Senator Morse began questioning Mr. Dulles about the sale of military aircraft to Saudi Arabia, which is said to have gotten six B-26 bombers. As we pointed out in our March 5 issue, the Secretary first said we had sent some aircraft "but not jets." When Morse asked whether fighters or bombers, Mr. Dulles replied that they were civilian cargo planes but added "I want to confirm this and correct the record if necessary." We discovered four days later that the answer had been changed to read "We have sold a very limited number [a mere half dozen bombers?] of military aircraft of the propellor type" but except for the *New York Post* no other newspaper was interested enough to publish this. On March 6 the *New York Times* finally carried a dispatch from its Washington bureau, "Dulles Withdraws Remark on Prophet" but the more sensational change about the planes was omitted. So far as the general public is concerned, it is still a secret. Imagine the uproar if the Secretary had admitted those plane sales at the public hearing.

The SEATO meeting at Karachi will add to the complexities of American foreign policy. Until then our position had been fairly clear in that part of the world. We were for Pakistan as against India, though just why is obscure. One easy way to keep the two distinct is culinary. The Indians, being largely Hindu, don't eat beef. The Pakistani on the other hand, being Moslem, are kosher and don't eat pork. Mr. Dulles lined up (in this case) on the kosher side. But now we have taken a firm position between the Pakistani and the Afghans over the Pushtus, and it's very hard at this distance (and even on the scene) to tell them apart. All three are Moslem and equally abjure pork. Let's try going over it slowly. Afghanistan is backing the Pathans in their desire for a separate Pushtunistan in what is now Western Pakistan in order to get a friendly outlet to the sea. The Pakistani insisted that the price of allying themselves with us against Moscow was our taking a firm stand with *them* against the Pushtus. This may seem a distant quarrel to most of us, but in case of trouble we can see it inspiring Tin Pan Alley to tune up a marching song, something like "Onward Moslem SEATO soldiers, pushing toward Pushtunistan."

When we see the egg-shell delicacy with which the Senate has been setting up its investigation of campaign contributions, we wonder what would happen if this inquiry were handled witch hunt style. Deeply as we believe that all God's chillun got civil liberties, we confess we'd enjoy the spectacle of seeing some Senator asked, "Did you ever change your mind about any piece of legislation after receiving a hint from a wealthy contributor? Come, come now, Senator. Answer yes, no or the Fifth amendment."

The most disturbing news of the week on the international front was from New Delhi where a Soviet trade representative has joined the local Rotary club. When Muscovites begin turning up at business men's luncheons with those big round badges reading, "Just call me Igor," we're going down to the State Department and join Mr. Dulles in prayer.

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A New Rule and The Gold Case Make the Robeson and Boudin Passport Appeals Urgent

State Department Will Now Require Non-Communist Oaths of All Travellers

A new form of passport application and the new decision in the Ben Gold case make the outcome of the Robeson and Boudin passport appeals of urgent importance. The new form, to go into use about July 1, will require all applicants for passports to answer under oath three questions: (1) "Are you now a member of the Communist party?" (2) "Have you ever been a member of the Communist party?" (3) "If ever a member, state period of membership."

Just how hazardous the making of such an affidavit may be is freshly demonstrated by the 4-4 decision of the Court of Appeals for the District of Columbia on March 9 in the Gold case. The effect of the split decision was to affirm the Gold conviction for falsely swearing a non-Communist affidavit under the Taft-Hartley Act.

If the Gold ruling stands on appeal to the Supreme Court, persons who sign such affidavits will be in danger of conviction for false swearing even though they are not members of the Communist party in any ordinary sense. There was no direct evidence, documentary or from witnesses, that Gold was a member of the Communist party at any time after his resignation on August 24, 1950.

Firm Standard Abandoned

"The mere fact," the prosecutor told the jury, "that there is no evidence before you ladies and gentlemen that Gold after 1950, August, didn't have a party card, didn't attend meetings or didn't pay dues, under the testimony of the witnesses sworn on oath before you is not indicative that he was not a member. None whatever."

Linked with this vague standard of membership is the other major question raised by the Gold case. This is whether people can be convicted of false swearing without the strict proof traditionally required in perjury cases when falsity must be proven by two witnesses or by one witness and corroborating evidence.

In Gold's case the basis of the conviction was circumstantial. The post-1950 evidence was (1) that Gold's name was mentioned without abuse (!) in the *Daily Worker* on six occasions, (2) that he marched with his Fur Workers Union in the 1951 and 1952 May Day parades and (3) that he helped in the defense of Irving Potash, a fellow official of the same union tried on Smith Act charges.

Affidavit Not Enough

Despite these hazards, the making of an affidavit will not automatically qualify the traveller for a passport. In this the new regulations differ strikingly from the Taft-Hartley Act. Under the Act, the making of the affidavits by union officials automatically qualify the union for the benefits of the National Labor Relations Act.* If the government believes the affidavit false, it can initiate a separate proceeding for false swearing or perjury. The union continues to enjoy its NLRB privileges until the charges are proven.

Not so the traveller. The government's position, as spelled out in the Boudin case, merits close attention. "The submission of a truthful affidavit," the government argued, "no matter what the truth may be, will not be conclusive either for or against the issuance of a passport. It will merely be important evidence for the consideration of the Secretary [of State]. . . ." Dr. Linus Pauling told the Hennings committee he signed half a dozen non-Communist affidavits but could not get a passport until he was awarded the Nobel prize.

Paul Robeson refused to swear a non-Communist affidavit; his case is of prime importance for it squarely tests the Department's right under the First Amendment to refuse a man a passport because it does not approve of his political views and associations. The government argued that it had refused him passports to attend Communist sponsored peace meetings abroad because it thought such activities "contrary to the best interests of the United States." This formula, like the Department's own regulations,* is broad enough to cover non-Communists (like Judge William Clark) or anti-Communist radicals (like Max Schachtman).

A Restraint on Free Speech

"Realistically viewed," Robeson's counsel, Leonard Boudin, argued, "the oath is not only a method of denying a passport to those who refuse to take it. It is also a device to hold in hostage an applicant's liberty, under the possibility of a perjury prosecution, as a condition of a passport grant."

It is no less realistic to observe that the regulations are vague enough to punish lawyers who handle passport appeals. Harry I. Rand, who argued Boudin's appeal for a passport did not claim that Boudin's loss of a passport was linked in this way to Robeson's.

But Boudin in the January 1956 issue of the *Columbia Law Review*, discussing "The Constitutional Right to Travel," relates that Mrs. Ruth B. Shipley, then in charge of the passport office, told him "that his trip abroad to represent passport litigants against the Department was necessarily an aid to international Communism, and also that a proposed trip to represent employes of UNESCO before the Administrative Tribunal of the International Labor Organization was contrary to American policy."

What the Court May Do

Three of the eight judges on the Court of Appeals here, Edgerton, Fahy and Washington, ruled in the Schachtman case last June that travel was "a natural right" but subject to "reasonable regulation," whatever that may ultimately mean. Edgerton, Washington and Bazelon ordered a "quasi-judicial hearing" last June in the Dr. Otto Nathan case. Thus four judges hold views favorable to passport applicants.

The State Department's basic position, however, is so extreme that a majority may form against it. The Department contends that until an applicant for a passport has answered all questions put to him under oath, he has not completed his application and therefore is ineligible for a hearing of any kind! It contends that a passport is a license and that the burden of proof is on the applicant for the license to prove his eligibility. The Court might reverse the Robeson decision and order the Department to give him a hearing without an affidavit, and it could uphold Judge Youngdahl's decision in Boudin's case that the Department cannot lawfully deny a man a passport without permitting him to face his accusers.

In any case, however these procedural questions are decided, we are still a long way from a clear ruling that the Department may not refuse a man a passport because it disapproves of his political views.

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* It should also be noted that unions which refuse to comply with the non-Communist oath provisions, like the Mine Workers and the Printers, can go on bargaining collectively. Indeed their individual members as distinct from the unions themselves may still utilize the privileges of the NLRB, as the Court of Appeals here in Washington ruled on March 8 in News Printing Company v. NLRB, upholding the rights of union printers on the Paterson (N.J.) Evening News.

* See Departmental Regulation 51.136 "Limitations on issuance of passports to certain other [than Communistic] persons. In order to promote and safeguard the interests of the United States, passport facilities . . . will be refused to a person when it appears to the satisfaction of the Secretary of State that the person's activities abroad would: (1) violate the laws of the United States; (2) be prejudicial to the orderly conduct of foreign relations; or (3) otherwise be prejudicial to the interests of the United States." (Newly added January 10, 1956.)

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South Carolina Petitions Congress to Put the NAACP on The Subversive List

On Cyprus We Subordinate Religion and Freedom to The Need for Bases

The keys to the Cyprus situation are simple. Negotiations broke down because the British did not want to recognize majority rule, since four-fifths of the people are Greek and would vote for union with the mother country. As in Ireland, the nationalist movement is grouped around the church, in this case the Greek orthodox. Union with Greece, as Homer Bigart reported in the *New York Times* of March 7, "is being preached from nearly every Orthodox pulpit. . . . But to silence the pulpit would require mass arrests or deportation starting with Archbishop Makarios and the even more outspoken Bishop Kyprianos of Kyrenia." And sure enough two days later these leading clerics were seized and deported to prison islands in the Indian Ocean. So here we have the principles of majority rule, self-determination, freedom of speech and the sanctity of the church violated because the British—with our support—want to keep Cyprus as a military and naval base. "The real question at issue," as the *New York Times* hastened to explain March 10 in an editorial faithfully echoing the State Department, "is not whether Cyprus ought to be united to Greece if that is what most of the inhabitants want, but when and how . . ." i.e. in the sweet bye and bye. The affair is worth keeping in mind next time we hear how They, unlike Us, believe the end justifies the means. In Cyprus, as in the Balkans all through the Nineteenth Century, British policy for imperial reasons is again pro-Turk and anti-Christian. That the Rev. John Foster Dulles has bestowed his apostolic blessing on this policy may be seen in that famous note last year to Greece and Turkey which managed to deplore those anti-Greek pogroms in Turkey without ever saying one word in condemnation of the Turks.

Among the petitions laid before the Senate last Monday was a joint resolution of the South Carolina legislature asking the Attorney General to put the NAACP on his subversive list "so that it may be kept under the proper surveillance and that all citizens of the United States may have ample warning of the danger to our way of life which lurks in such an organization." The joint resolution lists the number of times various officers and directors of the NAACP are "cited" in the House Un-American Activities Committee files, among them such respectables as Ralph Bunche, Allen Knight Chalmers, Norman Cousins, Lewis Gannett, Alfred Baker Lewis, Buell G. Gallagher, and Lloyd Garrison. We have long suspected that some of these gentlemen were secretly in sympathy with the abolitionists.

Another indication of the dominance exercised by Secretary of the Treasury Humphrey is the part he is playing in trying to work out a compromise between the Administration and Senators backing the new form of the Bricker amendment. This amendment, in curbing the treaty making powers of the President, concerns the Attorney General and the Secretary of State but hardly the Treasury. Normally the President would take a hand if a compromise were sought. But in this as in so many other cases "the President" today is really Humphrey rather than Eisenhower; the former has both brains and money—more, indeed, of either than any other member of the Cabinet. This predominance is not a post heart attack phenomena—it was already observable before the President's illness. . . .

The Vision of "Big Jim" Farley

"How heartening it is for a world traveller to see the widespread distribution of American products. . . . Maybe it's a pack of Luckies, jealously hoarded by a Nile boatman at Cairo, or a Hershey bar held in the tight fist of a hungry little child in West Germany. . . . When we speak to a man in another country about democracy, he may or may not understand us. But when you give him a ride in your Buick, Ford, or Chrysler, or offer him a Chesterfield, Lucky Strike, Camel or Old Gold or a Coke, he can easily judge for himself. This is America with its hard fist in the eye of greedy ideology. This is the Lord, the image of man, spreading subsistence, comfort and joy."

—*The Hon. James A. Farley, chairman of the board, Coca Cola Export Corporation, in an address to the Washington chapter, American Marketing Association (Congressional Record, Feb. 16, Page A 1460).*

An Old Shocker: The familiar, heart-breaking contrast between how little we spend for medical research and how much we spend for arms was brought up-to-date last week by Rep. Denton (D., Ind.) during a debate on appropriations. Last year $1,407,933,000 was appropriated for defense research, while only $97.6 million was marked for research in medicine, he said. While we spent $260 million to develop and test atomic weapons, we spent less than $19 million for heart disease research. And though we spend $216 million to build 1 aircraft carrier, less than $25 million was spent to study cancer.

Only one of the many Congressmen visited by the 1,400 or so delegates to last week's Assembly for Civil Rights made any public mention of the visit. Rep. Addonizio (D., N. J.) told the House he had met with a New Jersey delegation and would support all the bills for which it lobbied.

Some Facts the Press Did Not Report About the Cammer Contempt Decision

There is some very odd business the press failed to report behind the contempt conviction of Harold I. Cammer which the Supreme Court reversed last Monday. Cammer was counsel for Ben Gold in the Taft-Hartley oath case discussed on page two. Perhaps because there was no direct evidence that Gold had sworn falsely, the government twice failed to obtain indictments in New York. It then shifted to Washington, where the grand jury proved more amenable.

When Gold was arraigned, Cammer learned from a roster supplied by the court clerk that a majority of the members of the grand jury were employes of the government. In other cases, as Mr. Justice Black pointed out, the courts have held that the presence of government employes on juries may be challenged if evidence of bias or fear is offered, and that jurors may be questioned individually.

Cammer sent a questionnaire to the grand jurors saying that as Gold's counsel he was attempting to learn whether bias or fear may have played any part in the indictment. Cammer made an offer of proof that government employes in the present atmosphere would be afraid to rule against the government in cases involving Communist charges. On this basis he also challenged the petit jury which convicted Gold; five government employes and the wife of a government employe sat on that jury.

These motions were denied and Cammer himself was convicted of contempt for having sent out the questionnaire. The denial of the jury challenge motions will be appealed to the Supreme Court. So will a contrasting incident in which the judge refused to declare a mistrial because an FBI agent during the trial contacted three members of the jury and their families in such a way as to give jurors the impression that they were being investigated.

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The NAM Explains Why It Wants Congress to Investigate the ILO

The Issues Raised for the Bar by the New Sacher Contempt Conviction

When Harry Sacher was summoned as a witness by the Eastland committee last year in the Matusow inquiry, he answered all the questions asked him about the Matusow affair but declined to answer three questions about whether he was or ever had been a member of the Communist party or of a supposed lawyers' section of it. When Sacher challenged the relevancy of these questions to the matter under inquiry, the committee counsel, Jules Sourwine, then asserted that the committee was also interested in possible legislation requiring a non-Communist oath for practice in the Federal courts. Sacher still declined to answer but did not invoke the Fifth amendment.

On trial here last week before Judge Alexander Holtzoff, Sacher's lawyers, Hubert Delaney and David Rein, argued three main points. One was that the questions were not pertinent to the matter under inquiry as stated by the committee chairman. The second was that the committee was interfering with a pending judicial matter since a motion for a new trial of Sacher's clients in the Flynn case had been argued before Judge Dimock in New York and was then under advisement. The third was that under the First amendment the Senate Internal Security Subcommittee had no right to inquire into political beliefs. Former Judge Delaney also made the point that since Sacher had had nothing to do with either the recantation or the Matusow book and figured only as a lawyer in the whole affair, it was an interference with the right of counsel to summon him.

Judge Holtzoff ruled that even without any evidence he would uphold the committee's right to inquire into political views under the Senate resolution giving it authority over "internal security." He found Sacher in contempt but said that he was imposing six months in jail and a $1,000 fine instead of the maximum of one year because he had not been contumacious. Obviously the appeal will raise fundamental questions for the bar as well as in the field of civil liberties.

Shocking: "In 1944 the International Labor Office at a meeting in Philadelphia, adopted a set of aims and objectives which became known as the 'Declaration of Philadelphia.' This Declaration, which was incorporated in the ILO's Constitution, went far beyond the original Constitution and stated among other things that 'poverty everywhere constitutes a danger to prosperity everywhere,' that people have a 'right' to economic security. . . ."—Protest filed with the House of Representatives Foreign Affairs Committee March 15 by the National Association of Manufacturers asking for "an immediate and thorough investigation" of the ILO.

Assistant Attorney General's Disbarment Asked

"A fighting mad Cleveland Bar Association yesterday announced it would seek disbarment of the high Justice Department official in Washington who criticized free legal aid provided 11 Communists in their recent trial here. . . .

"[Eugene H.] Freedheim [president of the association] said the Cleveland bar's executive committee had authorized filing a complaint with the grievance committee of the American bar against U.S. Attorney Gen. William F. Tompkins, chief of the Department's internal security division.

"A Washington dispatch Tuesday reported Tompkins criticized bar groups for furnishing lawyers to Communists . . . [and] specifically mentioned Cleveland in terming bar groups 'dupes' in a Communist drive to discredit the Smith Act. . . .

"The executive committee, said Freedheim, had voted to cite Tompkins for violating legal canons of ethics . . . by making a statement . . . containing false charges against members of the legal profession."

—Cleveland Plain Dealer, March 9, Page 1

Former Senator Millard E. Tydings of Maryland opened his campaign for the Senate with a speech in the suburbs of Washington last Tuesday night declaring, "If we are going to draft them [the Negroes] to fight and die for our country, if we are going to tax them, we have no alternative but to give them those opportunities afforded other citizens." He also took a sideswipe at loose security accusations by Senators hiding behind their parliamentary immunity. . . . The day that France's Foreign Minister, Christian Pineau, predicted at New Delhi that the whole world would move toward complete socialism in 20 or 50 years, the president of the Edison Electric Institute attacked the Eisenhower Administration for failing to halt the spread of socialism in the power industry. . . . He warned that Attorney General Herbert Brownell, whom we have long suspected, had gone "beyond anything the New Dealers and Fair Dealers ever conjured up" in favoring rural electric cooperatives and publicly owned utilities. . . . As we were telling Senator Eastland in our last nightmare, "Jim," we said, "it's those Republicans who'll really bear watching."

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